

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

KELTON DAVIS, WILLIAM TURNER,  
EDWIN LARREGUI, ROMAN  
JACKSON, KRISTIN JOHNSON,  
ELEANOR BRITT, ANTHONY  
ANDERSON, LASHAUN SMITH,  
SHAWNE JONES, HECTOR SUAREZ,  
ADAM COOPER, ANDREW  
WASHINGTON, P.L. by his parent LISA  
PIGGOTT, DAVID WILSON, and  
GENEVA WILSON, individually and on  
behalf of a class of all others similarly  
situated;

Plaintiffs,

-against-

THE CITY OF NEW YORK and NEW  
YORK CITY HOUSING AUTHORITY;

Defendants.

DECLARATION OF  
ANTHONY ELITCHER  
10 Civ. 699 (SAS)

ANTHONY ELITCHER, declares the following pursuant to 28 U.S.C. § 1746:

1. I am an attorney of The Legal Aid Society of New York. I am currently employed as the Project Manager for the Legal Aid Society's new Case Management System deployment. I was initially hired as a trial attorney in the Society's Criminal Practice in 1991. From 1994 until undertaking my current position, I was an attorney in the Criminal Practice Special Litigation Unit. I am familiar with the facts stated herein.

2. I submit this declaration in support of Plaintiffs' Memorandum of Law and Rule 56.1 Statement in Opposition to Defendant City of New York's Motion for Summary Judgment.

3. The Legal Aid Society's Criminal Practice serves as the primary provider of indigent defense services in New York City. It includes an Appeals Bureau, a Parole Revocation Defense Unit, a Special Litigation Unit, an Adolescent Intervention and Diversion Unit, and a MICA Unit for mentally ill, chemically addicted clients, in addition to its largest division, the Trial Practice.

4. The Criminal Practice tracks the work of the Trial Offices through its legacy Case Tracking system, whose database was modified in 2004 to be primarily populated by case data from the Office of Court Administration through New York City's DataShare initiative. By applying several external applications, and utilizing various search and reporting methodologies, the Legal Aid Society is able to report on, with specificity and a high degree of accuracy, the number of cases to which Criminal Practice attorneys are assigned in the trial courts as well as the charges alleged within, and the outcomes of, these cases.

5. Based on the above methodologies, the Society handled 1,749 criminal trespass arrests in New York City Criminal Courts from September 1, through November 30, 2010, of which approximately one third were specifically premised on allegations of trespass occurring on public housing development grounds (Penal Law §§140.10.e and 140.10.f). Due to charging practices of the NYPD, this figure is necessarily under-inclusive, since it excludes those cases where the allegation is solely a violation of Penal Law §140.15, whose place of occurrence may have been a public housing development.

6. According to our records, approximately 15% of these public housing specific cases have resulted in outright dismissals and adjournments in contemplation of dismissal ("ACD"). This figure excludes a substantial number of cases which are still pending and therefore have no identifiable disposition at present as well as cases in which district attorneys declined to

prosecute and thus charges were never filed. These numbers are statistically significant in light of the assertions made in Defendant City of New York's Motion for Summary Judgment.

7. Our current case loads include the following four representative cases handled by our Criminal Practice attorneys:

Docket No. 2010BX072411: On November 18, 2010, in the St. Mary's Park Houses in the Bronx, a 21-year-old man was arrested under Arrest Number B10694046 at 550 Cauldwell Avenue for trespassing after departing the apartment of a friend and resident who he was visiting. This matter is still pending.

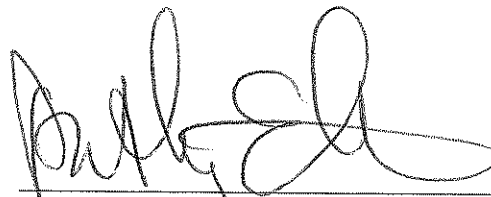
Docket No. 2010KN068144: On August 25, 2010, in the Boulevard Houses in Brooklyn, a 19-year-old teenager was arrested for trespassing under Arrest Number 075681677 at 630 Stanley Avenue, after departing the house of his uncle, a resident. The resulting prosecution has been dismissed in the interests of justice.

Docket No. 2010NY073508: On August 15, 2010, in the Clinton Houses in Manhattan, a 16-year-old NYCHA resident was arrested for trespassing under arrest Number M10672919, immediately after visiting a friend in a neighboring building. According to his mother, he has been stopped by police five times on NYCHA property. This case will be heard on February 3, 2011.

Docket No. 2010QN005950: On June 15, 2010, in the Redfern Houses in Rockaway, Queens, an 18-year-old NYCHA resident was arrested for trespassing under arrest Number Q10636456 immediately after visiting a friend in NYCHA Housing. The resulting prosecution was dismissed upon presentation of an affidavit submitted by the friend.

I declare under penalty of perjury that the foregoing is true and correct.

New York, New York  
December 22, 2010



ANTHONY ELITCHER